

MINUTES
MEETING OF INPATIENT PHYSICAL REHABILITATION SERVICES
TECHNICAL ADVISORY COMMITTEE

Of the Health Strategies Council
2 Peachtree Street, 34th Floor Conference Room, Atlanta, GA 30303

Friday, April 15, 2005
1:00 pm - 3:00 pm

Harve R. Bauguess, Chair, Presiding

MEMBERS PRESENT

Pamela Cartwright
Patricia Fraley
Kathy Kleinsteuber (via conference call)
John Lindsey
Dennis Skelley, FACHE
Mary Sloan, MPA
Diane Waldner
Wylene Watts
Cheryl Williams, RN

MEMBERS ABSENT

Donald Avery, FACHE
James Coughenour
Leanne Dennis
Brad Griffin
Charles Harman
Edwinlyn Heyward
Julia L. Mikell, M.D.
Jan Marie Popovich
Carol Zafiratos

GUESTS PRESENT

Jennifer Bach, Mitretek Healthcare Gill/Balsano
Esther Bailes, Southern Regional Medical Center
Jim Courtney, DHR/Office of Regulatory Services
Brian Crevesse, Parker Hudson Rainer & Dobbs
Annemarie Fitzgerald, Atlanta Medical Center
Ron Hunt, MD, Blue Cross Blue Shield of Georgia
Pat Moorhead, North Fulton Regional Hospital
Kathy Platt, Sullivan Consulting
Diana Potts, Gwinnett Hospital System
Kristen Vincent, DHR/Brain & Spinal Injury
Trust Fund Commission
Leah Fressell Watkins, Powell Goldstein
Delores Ware, Gwinnett Hospital System
Nathan Wesmith, South Fulton Medical Center- Tenet

STAFF PRESENT

Charemon Grant, JD
Matthew Jarrard, MPA
Robert Rozier, JD
Rhathelia Stroud, JD
Stephanie Taylor

WELCOME

Harve Bauguess called the meeting of the Inpatient Physical Rehabilitation Services Technical Advisory Committee (TAC) to order at 1:15 pm. He called on TAC members and guests to introduce themselves and welcomed Kathy Kleinsteuber, who joined the committee meeting via conference call. Also, Mr. Bauguess welcomed Dr. Ron Hunt and Jim Courtney, who attended the meeting in place of Charles Harman and Carol Zafiratos, respectively.

Following his introductory remarks, Mr. Bauguess called for a motion to approve the minutes of the meeting of February 4, 2005. A motion to accept the minutes was made by John Lindsey, seconded by Mary Sloan. TAC members unanimously approved the minutes.

REVIEW OF COMMITTEE CHARGE

Mr. Bauguess read the charge of the committee. He said that during the annual review of the State Health Plan and Rules for Inpatient Physical Rehabilitation Services by the Council's Long Term Care Standing Committee, it was recommended that both these documents be reviewed to ensure that they better address the needs of patients, consumers, regulators, and purchasers and reflect current industry practices. He said that the TAC is expected to produce a revised state health plan and corresponding rules for presentation to the Council. Following the Council's approval, they would be forwarded to the Board of the Department of Community Health to be issued for public comment.

OVERVIEW OF THE BRAIN & SPINAL INJURY TRUST FUND COMMISSION

Mr. Bauguess welcomed and introduced Kristen Vincent, Executive Director of the Department of Human Resources/Brain & Spinal Injury Trust Fund Commission. Some highlights of Ms. Vincent's presentation include the following:

- Goal of the Trust Fund Commission is to support the long term care needs of people with traumatic injuries
- Trust Fund Commission was established by legislation in 1998
 - Distributes funds and resources to individuals with traumatic brain injury and spinal cord injuries
 - Makes policy recommendations to enhance the state service delivery system
 - Goal of program
 - Independence
 - Inclusion in the community
 - Consumer choice
 - Self Determination
- Trust Fund Commission has distributed \$3,101,378 since October 2002 to 1,051 recipients; average award is \$2,950.00. Recipients must:
 - Be Georgia residents
 - Have sustained a traumatic brain injury or spinal cord injury

- Have exhausted other resources
- Trust Fund Commission serves as a central registry for data collection for traumatic brain injury and spinal cord injury.

Mr. Bauguess thanked Ms. Vincent for the presentation and publicly recognized the important work of the Brain & Spinal Injury Trust Fund Commission.

DISCUSSION OF INTEGRATION OF TRAUMATIC BRAIN INJURY IN THE STATE HEALTH PLAN & RULES FOR COMPREHENSIVE REHABILITATION SERVICES

Mr. Bauguess called on Stephanie Taylor to provide an overview of the materials that are contained in member packets and to guide the committee's ongoing discussion. Ms. Taylor noted that the following materials are included in member packets:

- List of all TBI Applications (1990-Present) - this data provides information about the number of applications which have been submitted to the Department. A current inventory of service providers is also attached.
- State Health Plan and Rules for Traumatic Brain Injury -these documents are used in the regulatory review process when an application is submitted to the Certificate of Need Section.
- "Additional State Definitions"- several nationwide definitions that were compiled by Department staff to aid the TAC in its decision-making process
- Licensure Rules, Inpatient Physical Rehabilitation Services-provided by Department of Human Resources/Office of Regulatory Services.
- Outline of Planning Process - outline of current standards that are used in most Department of Community Health's regulatory review documents. This document will be used to guide the committee's discussion during today's meeting.

Ms. Taylor said that at an earlier meeting members had suggested that the State Health Plan and Rules for Traumatic Brain Injury should be incorporated into the Plan and Rules for Comprehensive Inpatient Physical Rehabilitation Services. She said that while the Health Strategies Council voted to accept this recommendation, the TAC would need to take formal action. She inquired as to whether there was a need for additional discussion about this recommendation. Members indicated that it would be good policy to include traumatic brain injury, spinal cord injury and other inpatient physical rehabilitation services together into one comprehensive planning document. A motion to combine Traumatic Brain Injury into the State Health Plan and Rules for Comprehensive Inpatient Physical Rehabilitation Services was made by Dennis Skelley, seconded by Diane Waldner. All members unanimously approved this motion.

IDENTIFICATION OF STANDARDS FOR INCLUSION IN STATE HEALTH PLAN AND RULES FOR COMPREHENSIVE REHABILITATION SERVICES

Stephanie Taylor directed TAC members to the document entitled: *Outline of the Planning Process*, noting that this document would be used to guide the committee's discussions. She said that all of the standards that are outlined in this document are those that are used in many of the Department's current State Health Plans and Rules. Using this document, she reviewed each standard and asked that members provide the Department with input regarding whether this standard should remain as is or whether it needs to be enhanced.

The following are highlights of the TAC's discussion about each area:

Applicability

Ms. Taylor indicated that this standard would provide a statement about the parameters of the Rules. It would apply to providers seeking to offer inpatient physical rehabilitation services for adults, children, and patients with spinal cord and traumatic brain injuries. These Rules would be applicable to both new and expanded services. TAC members agreed that an applicability standard is appropriate. Members said:

- Many providers offer a wide range of comprehensive physical rehabilitation services to a cross-section of patients (TBI, spinal cord and other neuromuscular disorders). The committee needs to determine how to accurately capture and reflect the correct bed inventory in order to better gauge the level of statewide need and to accurately reflect the state's current inventory.
- Patients with traumatic brain injury have a greater need for transitional and life long learning skills and on average, do not consume a large amount of acute care services.
- Members inquired whether there is a need to carve out spinal cord beds. The Department suggested that this question be answered when the need methodology is discussed. Department staff also suggested that discussion around long term acute care beds be explored during the discussion of the need methodology.

Ms. Taylor indicated that the need methodology would not be discussed at today's meeting.

Definitions

Ms. Taylor indicated that the purpose of including definitions in the Rules is to ensure a standard mechanism to define terms. Definitions should be service-specific and be valid, based on current industry standards and guidelines.

Members recommended that a laundry list of items be maintained throughout the planning process. The current list includes the words "child", "adult", "new", and "expanded". Ms. Taylor said that the Department's current Rehab Rules do not provide a definition of "new" or "expanded". The words 'adult' and 'children' are defined in the Rules as follows:

'Adults' mean persons fifteen years of age and over.

'Children' mean persons fourteen years of age and under.

Mr. Skelley indicated that when these definitions were crafted in 1994, they originated from a therapeutic and not a nursing perspective. He said that distinctions are made in facilities between medical and rehabilitation needs of the patients. He further said that due to changes in liability, anyone under 18 years of age, in some rehab settings are required to be seen by a pediatrician.

- Providers may need to define these terms in their admission criteria
- Patient's body mass index might play a role in this standard
- Currently, there are two (2) pediatric licensed facilities in the state

Members suggested that the age category 0-17 years, should be considered a "child" with an upper age limit of 21 years of age; while 18 years and older should be considered an "adult", with a lower age limit of 16 years. They noted that some exception language could be included in the Rules such that a provider would not be in violation of the Rule if, based on medical necessity and patient choice, service was provided to patients in overlapping age groups. Members said that emancipated minors should be afforded the right to select his/her own provider. (The State of Georgia recognizes emancipated minors as adults). Ms. Taylor suggested that members review other state definitions including North Carolina and Maryland, as additional resources.

Members agreed that insurance is a major issue in referral patterns. They noted that when children without medical insurance need to be referred, it can be a very difficult challenge. The committee is expected to reexamine this issue at a future meeting.

"New"/"Expanded"

Mr. Rozier indicated that Georgia's current Inpatient Rehab Rules do not define either of these terms. He said that the term "new" is less problematic and could be defined as not ever providing the service. The more problematic definition is the word "expanded". He said that the committee could consider whether it is appropriate to add an occupancy level to the need methodology, such that no service expansion could occur unless all providers in the planning area/or the individual provider were operating at or above a particular level. Also, he indicated that the Department's definition of expansion should be consistent. He noted that the current Rules allow acute care hospitals to increase their number of (general medical/surgical) acute care beds, if they have maintained an occupancy level over 85% of the most recent two-year period. Acute care hospitals could add up to a maximum of 10 beds and would not be required to obtain a CON. If they have not maintained an 85% occupancy level, over a 2-year period, a CON would be required for expansion.

Some members indicate that the medical acuity of TBI patients may impact the occupancy level of a facility due to privacy needs. Some patients may have the need for a private room.

Members suggested that a similar rule as that which governs acute care hospitals regarding the ability to expand, every 2 years with 85% occupancy level, would be appropriate for inpatient physical rehabilitation service providers.

Adverse Impact

Ms. Taylor said that the committee should determine whether it is appropriate to maintain an adverse impact standard or whether the current standard needs to be enhanced in any way. The current standard is as follows:

An applicant for a new or expanded Comprehensive Inpatient Physical Rehabilitation Program for Children/Adults/Spinal Cord Disorders/traumatic brain injury/ shall document the impact on existing and approved services in the planning area with the goal of minimizing adverse impact on the delivery system.

Mr. Rozier added that the Department's interpretation of this standard provides that an existing provider should not experience a decrease of more than 10% of its patient base. He said that he would provide examples of other adverse impact language in other Rules (i.e.; Radiation Therapy) and would present them at the next meeting.

Mr. Skelley expressed concern about long-term acute care (LTAC) providers. He asked the committee to consider how to take into account the fact that there are other licensed providers who provide the same services. He said that if an LTAC provider submits a CON application to provide services near an existing rehab provider, there would be some overlap. The Department needs to be aware that both licensed facilities, with different license categories, could essentially provide the same service.

Other members noted that because of current regulatory issues some patients might be discharged from rehab facilities to skilled nursing facilities.

Members said that the state is over-bedded with regard to comprehensive inpatient physical rehabilitation beds. They agreed that new CMS guidelines, Prospective Payment System (PPS) guidelines and the 75% Rule are playing a significant role in some of these evolving changes. Subacute care is also impacting the shifting of care levels.

Members said that an adverse impact statement should be included in the revised Rules. They will revisit this issue at a later time to more clearly construct the language.

Quality Standards

Ms. Taylor indicated that the following standards are included in Georgia's current Rules:

An applicant for a new or expanded Comprehensive Inpatient Physical Rehabilitation Program for Spinal Cord Disorders shall demonstrate the intent to meet the standards of the Commission on Accreditation of Rehabilitation Facilities (CARF) which apply to Children/Adults/Spinal Cord Injury Programs, and Traumatic Brain Injury Programs and the applicable licensure rules of the Georgia Department of Human Resources.

An applicant for a new or expanded Comprehensive Inpatient Physical Rehabilitation Program for Children/Adults/Spinal Cord Injury Programs, and Traumatic Brain Injury Programs shall have written policies and procedures for utilization review. Such review shall consider, but is not limited to, factors such as medical necessity, appropriateness and efficiency of services, quality of patient care, and rates of utilization.

An applicant for a new or expanded Comprehensive Inpatient Physical Rehabilitation Program for Children/Adults/Spinal Cord Injury Programs, and Traumatic Brain Injury Programs shall document the intent to comply with the Physical Rehabilitation Services and Programs: Definitions and Program Guidelines, as described in the most recent official State Health Component Plan for Physical Rehabilitation Programs and Services.

An applicant for a new or expanded Comprehensive Inpatient Physical Rehabilitation Program for Children/Adults/Spinal Cord Injury Programs, and Traumatic Brain Injury Programs shall document the existence of referral arrangements with an acute-care hospital(s) to provide acute and emergency medical treatment to any patient who requires such care.

Some members raised questions about the words "intent to meet" that appear in the current standards. Mr. Rozier explained that a new program could not have met CARF standards since it was not in operation but would have to demonstrate that it intends to meet CARF standards. An applicant seeking to expand services would be required to prove accreditation.

Members noted that CARF would not accredit a program unless it has been operating for a minimum of six (6) months. Members also said that there are measures of quality, other than CARF, including dual accreditation between CARF and Joint Commission Accreditation that should be recognized. Members said that CARF accreditation is expensive.

Members recommended that an applicant should be required to meet CARF standards but would not necessarily have to be CARF-accredited. Members acknowledged that there are many rehab providers in the state that have chosen not to seek CARF accreditation, including many rural hospitals, particularly due to cost.

Ms. Taylor noted that there are no licensure Rules for Spinal Cord Injury programs. As such, the following language *"the applicable licensure rules of the Georgia Department of Human Resources* would be deleted from the Rules where it pertains to Spinal Cord Injury Programs.

Members inquired as to the number of licensed rehab facilities around the state that are CARF accredited. Department staff would attempt to secure this information.

At the conclusion of member discussions, committee members agreed that **new** rehab service providers must meet the intent of the CARF standards, within 36 months. An applicant seeking to **expand** services, must be CARF accredited prior to receiving CON approval.

Continuity Of Care: Referral Arrangements

Ms. Taylor indicated that the current Rule states as follows:

An applicant for a new or expanded Comprehensive Inpatient Physical Rehabilitation Program for Children/Adults/Spinal Cord Injury Programs, and Traumatic Brain Injury Programs shall document the existence of referral arrangements with an acute-care hospital(s) to provide acute and emergency medical treatment to any patient who requires such care.

The Department recommended that hospital providers be exempted from addressing this standard since they would be able to provide emergency room access. Department staff recommended that the above language be directed at freestanding facilities only. Members conceptually endorsed the Department's recommendation.

PUBLIC COMMENTS

Mr. Bauguess asked if anyone was interested in making public comment. No one indicated the desire to speak.

OTHER BUSINESS

Ms. Taylor said that there are several areas of the Rules that need to be reviewed and revised prior to the distribution of a draft working document to the committee. She said that the committee would discuss all of the standards, including need methodology. Following this review, staff would distribute a comprehensive draft document for the committee's review. Members were encouraged to send data or other information requests to Stephanie Taylor via email at (sttaylor@dch.state.ga.us) prior to the next scheduled meeting.

FUTURE MEETING

The next meeting is scheduled for **Friday, May 13, 1:00 pm – 3:30 pm at 2 Peachtree Street, Atlanta, 34th Floor Conference Room**

Mr. Bauguess thanked all members for their participation in today's meeting. The meeting ended at 3:05 pm.

Minutes taken on behalf of Chair by Stephanie Taylor

Respectfully Submitted,

Harve Bauguess, Chair